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SPEAKER OF THE HOUSE

# FACT SHEET

FROM SPEAKER OF THE HOUSE NANCY PELOSI  
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## H.R. 8404, Respect for Marriage Act *This Bipartisan Bill Enshrines and Protects Marriage Equality for the Purposes of Federal Law for Same Sex and Interracial Couples*

### **Key Points:**

- Yesterday, House Judiciary Committee Chairman Jerrold Nadler (D-NY), Senator Diane Feinstein (D-CA), Congressional LGBTQ+ Equality Caucus Chairman David Cicilline (D-RI), Senator Tammy Baldwin (D-WI) and Senator Susan Collins (R-ME) announced the introduction of the bipartisan Respect for Marriage Act.
- Today, the House will consider the bipartisan bill on the House Floor.
- The Respect for Marriage Act would enshrine the marriage equality for same sex and interracial couples guaranteed by *Obergefell* and *Loving* for the purposes of federal law, repeal the discriminatory Defense of Marriage Act (DOMA), and provide additional legal protections for marriage equality.
- While Democrats are fighting for the rights and dignity of all Americans, the Republican Party is continuing to move to the extreme right, with Sen. Ted Cruz (R-TX) announcing over the weekend that the 2015 Supreme Court landmark *Obergefell* civil rights decision on the right to marry was “wrongly decided.”

### **The Key Provisions of the Bill**

- **Enshrines Marriage Equality for Federal Law Purposes:** The bill requires, for federal law purposes, that an individual be considered married if the marriage was valid in the state where it was performed. This gives same-sex and interracial couples additional security that they will continue to enjoy equal treatment under federal law as all other married couples – as the Constitution requires.
- **Repeals the Discriminatory Defense of Marriage Act:** The Supreme Court effectively rendered the Defense of Marriage Act of 1996 inert with its landmark decisions in *United States v. Windsor* and *Obergefell*, holding that marriage equality was a constitutional right. This unconstitutional and discriminatory law, however, still officially remains on the books. Therefore, this bill would repeal this statute once and for all.
- **Provides Additional Legal Protections from Individuals Seeking to Undermine Marriage Equality While Acting Under Color of State Law:** The bill prohibits any person acting under color of state law from denying full faith and credit to an out-of-state marriage based on the sex, race, ethnicity or national origin of the individuals in the marriage. The bill also provides the U.S. Attorney General with the authority to pursue enforcement actions and creates a private right of action for any individual harmed by a violation of this provision.

### **Background on Why This Bill Is Needed:**

- While marriage equality remains constitutionally protected, the Supreme Court’s reasoning in *Dobbs v. Jackson Women’s Health Organization* to justify overturning the right to abortion could be used in the future to threaten other fundamental rights, including the right to marriage equality.
- In fact, in a concurring opinion in *Dobbs*, Justice Clarence Thomas explicitly called on the Supreme Court to reconsider its decisions protecting other fundamental rights, including the right to same-sex marriage recognized in *Obergefell*. And although Justice Thomas did not mention the right to interracial marriage, that right relies on the same constitutional doctrines as the right to same-sex marriage, and therefore, could be vulnerable to a legal challenge.

**Many National Organizations Support the Respect for Marriage Act**

- National organizations supporting the bill include ACLU, Center for American Progress, Equality Federation, Family Equality, Freedom for All Americans, GLAD, Human Rights Campaign, Lambda Legal, National Black Justice Coalition, National Center for Lesbian Rights, National Women's Law Center and PFLAG.